



**PATENT APPLICATION**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re the Application of:

Hisashi AMAYA et al.

Art Unit: 1793

Application No.: 10/798,855

Examiner: Roe, J. R.

Filed: March 12, 2004

Attorney Dkt. No.: 12054-0024

For: MARTENSITIC STAINLESS STEEL

**REQUEST FOR RECONSIDERATION**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This Request for Reconsideration is being submitted in connection with the submission of a Declaration under 37 C.F.R. 1.132 and RCE and in response to the Advisory Action of December 11, 2008.

The purpose of the Declaration submission is to refute the Examiner's position that the processing of Miyata and Hara is so similar to that used in the invention that the missing features of the claims are presumed to be present in the prior art. More particularly, the Examiner noted that the 600 °C tempering in the specification was not the same as the 550 °C temperatures used in the prior art. The attached Declaration demonstrates that the effect of tempering at 550 °C is more analogous to a 600 °C tempering than one that is performed at 400 °C. The Declaration also makes it clear that the effect of tempering at 400 °C is completely different than the effect of tempering at 550 or 600 °C and because of this difference in effect, it is error to assume that the